EDWARD J. MARKEY
7TH DISTRICT, MASSACHUSETTS

ENERGY AND COMMERCE COMMITTEE
RANKING MEMBER
SUBCOMMITTEE ON
TELECOMMUNICATIONS AND
THE INTERNET

SELECT COMMITTEE ON
HOMELAND SECURITY

RESOURCES COMMITTEE

Congress of the United States
House of Representatives
Washington, DC 20515–2107

2108 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–2107
(202) 225–2836

DISTRICT OFFICES:

5 HIGH STREET, SUITE 101
MEDFORD, MA 02155
(781) 396–2900

188 CONCORD STREET, SUITE 102
FRAMINGHAM, MA 01702
(508) 875–2900
www.house.gov/markey

August 8, 2005

The Honorable Niles J. Diaz
Chairman
Nuclear Regulatory Commission
Washington, D.C.

Dear Mr. Chairman:

I am writing the Commission in regard to an article which appeared in yesterday's New York Times.

This article reports that an NRC licensee, Florida Power and Light, "appears to have shipped radioactive waste to ordinary landfills, municipal sewage treatment plants, and some unknown locations in the 1970's and early 19890's." According to the Times article, while the company reportedly said in 1982 that it had mistakenly made a shipment to a landfill, "the documents appear to show numerous shipments to multiple locations." In addition, the article reports that "while the company conducted a survey and cleanup in the one known location, it found only one kind of radioactive material, and nuclear experts involved in…lawsuits [against the company] say there must have been other isotopes for which no tests were conducted."

The Times article goes on to report that State of Florida documents obtained by plaintiffs in a lawsuit against the company have found contamination at levels far in excess of State and EPA standards. It also cites state documents indicating that some contaminated material was transported to a "cow pasture" and that other materials were removed to an "unknown site." The Times reports that the plaintiffs in this litigation are alleging that the company concealed these shipments from the Commission.

The information and allegations reported in the Times, if true, raise disturbing questions regarding the nature and adequacy of Florida Power and Light's compliance with laws and regulations administered by the Commission. In order to fully evaluate the NRC's oversight and enforcement activities in this matter, I hereby request the Commission's response to the following questions:

1. Has the Commission conducted its own independent investigation into the matters described in the Times article and the private litigation referred to in the article? If not, why not? If so, what has the Commission found?
2. Have any of Florida Power and Light's nuclear waste disposal practices been found by the Commission to be in violation of applicable laws and regulations? If

PRINTED ON RECYCLED PAPER

so, what penalties have been imposed for these violations? If not, upon what basis did the Commission make its findings?

3. The Times article raises the prospect of unlicensed and illegal nuclear waste disposal practices having been concealed from he Commission by a licensee. What is the penalty for concealing this type information from the NRC? Has the Commission looked into this possibility? Is there evidence that this may have occurred in this case? If so, what actions is the Commission taking in response.?
4. Does the Commission believe that any of the documents uncovered in the pending private litigation warrant further investigation by the NRC staff to determine whether violations of applicable laws and regulations administered by the NRC may have been violated? If so, is such an investigation underway? If not, why not?
5. The Times article reports that tests of the teeth of two boys whose families have filed lawsuits against Florida Power and Light for alleged illegal nuclear waste dumping practices have revealed "abnormally high levels of radioactive strontium." Has the NRC conducted any testing or analysis to ascertain how these boys, or others living around alleged Florida Power and Light nuclear waste dumping sites, might have come to be exposed to such abnormally high levels of radioactive strontium? If not, why not? If so, please report on your findings and conclusions.
6. If it is true, as the Times reports, that Florida Power and Light may have disposed of radioactive waste at unlicensed sites, what would be the company's obligations under federal law with respect to cleaning up those sites and addressing any harm done to persons exposed to radiation as the result of such dumping?

Thank you for your assistance and cooperation in this matter. Should you have any questions about this request, please have your staff contact Mr. Jeffrey Duncan or Dr. Michal Freedhoff of my staff at 202-225-2836.

Sincerely,

Ed Markey

Edward J. Markey
Member of Congress

Enclosure

The New York Times
nytimes.com

August 7, 2005

Atomic Waste Mishandled, Records Show

By MATTHEW L. WALD

WASHINGTON, Aug. 6 - The operator of a Florida nuclear plant appears to have shipped radioactive waste to ordinary landfills, municipal sewage treatment plants and some unknown locations in the 1970's and early 80's, according to internal documents and government records obtained in lawsuits.

Florida Power and Light said that in 1982 it had mistakenly made a shipment to a landfill, but the documents appear to show numerous shipments to multiple locations. In addition, while the company conducted a survey and cleanup in the one known location, it found only one kind of radioactive material, and nuclear experts involved in the lawsuits say there must have been other isotopes for which no tests were conducted. The overall level of contamination is difficult to determine.

Plant workers used a sink to wash mops, rags and other heavily contaminated materials, believing that the drain was connected to the plant's radioactive waste system, but instead it drained into a sanitary sewage system, according to the documents. The contaminants were then hauled away with sludge. According to documents cited by the plaintiffs, at one point the plant in St. Lucie County was shipping to regular landfills materials that were 10 times as radioactive as what it was shipping to a low-level waste dump.

A spokeswoman for Florida Power and Light said the company had mistakenly made two such shipments in the early 80's, but had disclosed it at the time and removed the waste afterward.

"It's a 23-year-old event," said Rachel Scott, the spokeswoman. "It was thoroughly investigated at the time by both the Nuclear Regulatory Commission and the Florida Department of Health, who determined that there was no health issue."

Samples were tested in a lab and only one isotope, cobalt-60, was found, Ms. Scott said. Cobalt-60 is a material that becomes radioactive when neutrons from the reactor core are captured by atoms of metal. But the plaintiffs say records show that at the time St. Lucie's fuel was leaking fission products, like strontium and cesium, into the cooling water and thus contaminating the plant. Such contaminants would have been present in the mops and similar materials, they argue.

According to documents obtained by the plaintiffs, however, a week after the cleanup was completed at a dump site the company found contamination at a level 20 times what was proposed by the State of Florida, and thousands of times higher than what the Environmental Protection Agency allowed for agricultural land; the surrounding area is used for cattle and citrus.

A state document quoted by the plaintiffs says that some contaminated material was transported to a "cow pasture." Another state document refers to daily sludge being "removed by Portolet to unknown site."

The company has concealed the shipments from the Nuclear Regulatory Commission, according to the lawsuits.

The parents of Zachary Finestone, an 11-year-old who grew up in the area and was diagnosed with cancer in March 2000, filed suit in Federal District Court for the Southern District of Florida in 2003. The case is scheduled to go to trial in January.

The parents of Ashton Lowe, who had brain cancer when he died at age 13 in May 2001, filed suit in 2003 in the same court. That case is scheduled for trial early next year.

The parents' lawyer, Nancy La Vista, said she planned to argue that tests of the boys' baby teeth showed abnormally high levels of radioactive strontium, which is produced when atoms are split and that when ingested binds to human bones. Older people have strontium in their bones that was created from atmospheric nuclear testing. But, Ms. La Vista said, "These kids were all born after Chernobyl, after Three Mile Island, and after atmospheric testing."

Copyright 2005 The New York Times Company | Home | Privacy Policy | Search | Corrections | XML | |